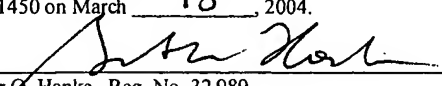


CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 18, 2004.


Gunther O. Hanke, Reg. No. 32,989



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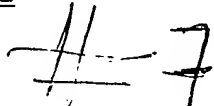

ANDRES KASHNIKOV
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3700

8/16/04

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/057,443
Applicant : Arkady Kokish
Filed : January 25, 2002
Title : **BALLOON WITH THE VARIABLE RADIAL FORCE
DISTRIBUTION**
Art Unit : 3763
Examiner : Manuel A. Mendez
Docket No.: : ACSC 60171 (1721C)
Customer No. : 24201

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450


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PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT
UNDER 37 CFR 1.181

Dear Sir:

This paper is responsive to the Notice of Abandonment March 8, 2004. Applicant hereby petitions the Patent Office to withdraw its holding of abandonment of the above-identified patent application for failure to timely file a proper reply to the Office Action letter mailed on August 14, 2003.

Applicant's response to the Office Action was timely made on August 28, 2003, as witnessed by the attached copies of the filed documentation and proof of initial mailing (including Patent Office Acknowledgement of Receipt on Postcard). A Terminal

Disclaimer was timely mailed and was responsive to the Office Action. The abandonment of this application, therefore, is in error and Applicant respectfully requests that this application be revived and abandonment be rescinded.

No fees are due with this communication. However, if a fee is in fact due, the Commissioner is authorized to charge our Deposit Account No. 06-2425. **A duplicate of this letter is enclosed.**

Respectfully submitted,

FULWIDER PATTON LEE & UTECHT, LLP

By:



Gunther O. Hanke

Registration No. 32,989

GOH/psm

Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045
Telephone: (310) 824-5555
Facsimile: (310) 824-9696
Customer No. 24201
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AUG 18 2003



UNITED STATES PATENT AND TRADEMARK OFFICE

FULWIDER PATTON LEE & UTECHT, LLP

APR 22 2004

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United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,443	01/25/2002	Arkady Kokish	9600.389T	1294

24201 7590 08/14/2003
FULWIDER PATTON LEE & UTECHT, LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES, CA 90045

ACSC - 60171

EXAMINER

MENDEZ, MANUEL A

ART UNIT	PAPER NUMBER
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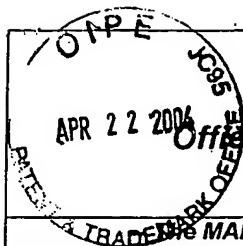
3763

DATE MAILED: 08/14/2003

Response Due November 14, 2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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TECHNOLOGY CENTER R3700



Office Action Summary

Application No.

10/057,443

Applicant(s)

KOKISH, ARKADY

Examiner

Manuel Mendez

Art Unit

3763

THE MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 21-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____

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Art Unit: 3763

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 21-24 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-23 of U.S. Patent No. 6,391,002. Although the conflicting claims are not identical, they are not patentably distinct from each other. Claims 21-24 disclose enhancements or limitations that are considered obvious design choices in view of the teachings of U.S. Patent No.

6,391,002. Therefore, claims 21-24 are not considered patentably distinct.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Manuel Mendez whose telephone number is 703-308-2221. The examiner can normally be reached on 0730-1800 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Brian Casler can be reached on 703-308-3552. The fax phone numbers

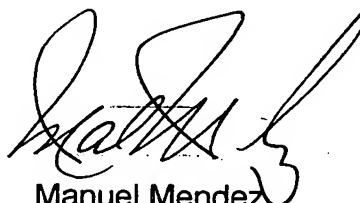
Application/Control Number: 10/057,443

Page 3

Art Unit: 3763

for the organization where this application or proceeding is assigned are 703-305-3590

for regular communications and 703-305-3590 for After Final communications.

A handwritten signature in black ink, appearing to read 'Manuel Mendez', with a stylized flourish at the end.

Manuel Mendez
Primary Examiner
Art Unit 3763

August 11, 2003

Notice of References Cited

APR 22 2004

Application/Control No.

10/057,443

Applicant(s)/Patent Under
Reexamination
KOKISH, ARKADY

Examiner

Manuel Mendez

Art Unit

3763

Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-6391002	05-2002	Kokish	604/96.01
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

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FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					


NON-PATENT DOCUMENTS

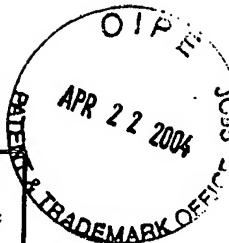
*		Include as applicable: Author, Title Data, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

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Gunther O. Hanke, Reg. No. 32,989



COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of

Inventor: Arkady Kokish

Serial No. 10/057,443

Filed: January 25, 2002

For: **BALLOON WITH THE VARIABLE
RADIAL FORCE DISTRIBUTION**

Examiner: Manuel Mendez

Group Art Unit: 3763

Client ID/Matter No. ACSC 61071 (1721C)

August 28, 2003

**TERMINAL DISCLAIMER TO OBVIATE
A DOUBLE PATENTING REJECTION OVER A PRIOR PATENT**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The owner, Advanced Cardiovascular Systems, Inc. ("ACS"), of the entire interest in the instant application hereby disclaims, except as provided below, the terminal part of any patent granted on the instant application, which would extend beyond the expiration date of any patent granted on Patent No. 6,391,002, filed on December 7, 1999 as shortened by any terminal disclaimer. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the above-listed application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors, or assigns.

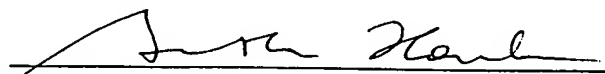
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The required fee in accordance with 37 C.F.R. § 1.20(d), in the amount of \$110 is enclosed to cover the disclaimer. Please charge any additional fees or credit any overpayment to Deposit Account No. 06-2425. **A duplicate of this paper is enclosed.**

Respectfully submitted,

FULWIDER PATTON LEE & UTECHT, LLP

By:



Gunther O. Hanke
Registration No. 32,989

GOH:psm

Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045
Telephone: (310) 824-5555
Facsimile: (310) 824-9696
Customer No. 24201

COPY

Client ID/Matter No.: ACSC 60171 (1721C)
Date Mailed: August 28, 2003
Date Due: November 14, 2003
Date Filed: January 25, 2002
Serial No.: 10/057,443

Applicant: Arkady Kokish

Title: BALLOON WITH THE VARIABLE RESISTANCE
DISTRIBUTION



Documents enclosed:

1. Transmittal Form (PTO/SB/21)
2. Fee Transmittal (PTO/SB/17)
3. Terminal Disclaimer to Obviate A Double Patenting Rejection Over A Prior Patent
4. Check No. 083106 in the amount of \$110.00 to cover the disclaimer fee.

The U.S. Patent and Trademark Office Mail Room stamp hereon acknowledges receipt of the items indicated above on the date shown.

GOH:psm

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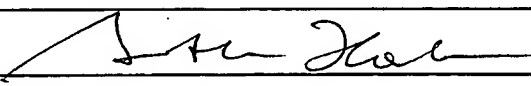
PTO/SB/21 (08-03)


Approved for use through 07/31/2006. OMB 0651-0031
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

<h1>TRANSMITTAL FORM</h1> <p>(to be used for all correspondence after initial filing)</p>		Application Number	10/057/443
		Filing Date	01/25/2002
		First Named Inventor	Arkady Kokish
		Art Unit	3763
		Examiner Name	Manuel A. Mendez
Total Number of Pages in This Submission	13	Attorney Docket Number	ACSC 60171 (1721C)

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): 1. COPY - Terminal Disclaimer mailed 8/28/2003 2. COPY - Office Action mailed 8/14/ 003 3. POSTCARD
Remarks CUSTOMER NO.: 24201		

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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	FULWIDER PATTON LEE & UTECHT, LLP Gunther O. Hanke, Reg. No. 32,989
Signature	
Date	March 18, 2004

CERTIFICATE OF TRANSMISSION/MAILING			
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Typed or printed name	Gunther O. Hanke, Reg. No. 32,989		
Signature		Date	March 18, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.